

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ANTHONY SORIA, SP 2012-LE-049 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit addition to remain 4.0 ft. from side lot line. Located at 6316 Alamo St., Springfield, 22150, on approx. 9,240 sq. ft. of land zoned R-4 and HC. Lee District. Tax Map 80-4 ((5)) (4) 20. Ms. Gibb moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 31, 2012; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. This is a close call.
3. The Board could go either way on this.
4. The Board is usually not persuaded by what else has happened in the neighborhood.
5. They certainly did not need special permits or variances probably to enclose their carports in the neighborhood.
6. The Board took into effect the testimony of the agent that the applicant had language difficulties and looked around and saw other carports turned into additions, and it appeared that he was building in the same footprint, and for that reason, he could proceed.
7. Of course, that did not explain why he did not get a building permit, but as to meeting the standard that the compliance was done in good faith, just barely.
8. The applicant has met the other required standards, the other being E, which the Board was worried about, that it did not create an unsafe condition with respect to both other property and public streets.
9. The Board had an anonymous letter raising the question of building too close to the adjacent property and that it could be a fire hazard, but the Board had testimony from the inspector that fire retardant materials will be required.
10. The applicant met required Standards A through G, just barely.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:


- 1. This special permit is approved only for the location of an addition (carport enclosure) as shown on the plat prepared by Alexandria Surveys, LLC, dated April 6, 2012, as revised through August 1, 2012, sealed on September 14, 2012, submitted with this application and is not transferable to other land.
- 2. All applicable permits and final inspections shall be obtained for the addition within 180 days of approval of this special permit.

3. The exterior of the addition shall be finished with vinyl siding and gutters consistent with the house.
4. Notwithstanding what is shown on the special permit plat, the "shed" located within the 25 foot storm sewer easement shall be removed from the property or relocated outside of the easement to a permitted location within 90 days of approval of this special permit.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Smith seconded the motion, which carried by a vote of 5-1. Mr. Byers voted against the motion. Mr. Hammack was absent from the meeting.

A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals